

#12
Dmt
2-21-02

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of:

Farwick, *et al.*

Appl. No.: 09/825,293

Filed: April 4, 2001

For: **New Nucleotide Sequences
Encoding the mkeE17 Gene**



Art Unit: 1652

Examiner: C. Fronda

Atty. Dkt.: 21123/280108

Response to Restriction Requirement

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

In response to the Office Action dated January 18, 2002, in which the Examiner imposed a restriction requirement on the claims in the above-captioned application, Applicants hereby elect the inventions of restriction Group I. This includes claims 1-7, 9 and 19 directed to an isolated polynucleotide, a vector and a coryneform bacterium comprising the polynucleotide. It is respectfully requested that the claims in the non-elected restriction groups be cancelled without prejudice.

This election is made with traverse.

Applicants respectfully submit that the number of restriction groups in this case is excessive. Groups II-IX are related by the fact that they all involve processes in which the mkeE17 gene is reduced in activity. If the mkeE17 gene is patentable then all of the claims in these other groups should be patentable as well (at least with respect to prior art considerations). It is absurd to require that Applicants pay nine filing fees under these circumstances. The final group, for a method of isolating nucleic acids is equally suspect. Clearly, the inventive concept underlying these claims is the use of hybridization probes having sequences suitable for obtaining mkeE17. They are not based upon a new generalized

RECEIVED
FEB 21 2002
TECH CENTER 1600/2900

technique in molecular biology. In light of these considerations, Applicants respectfully request that the present division of restriction groups be reconsidered and reduced.

Applicants do not believe that any fee is required for the filing of the present document. Nevertheless, if one or more extensions of time are required to prevent the application from going abandoned, then such extensions of time are hereby petitioned and any fees therefor may be charged to our Deposit Account No. 03-3975, under Order No. 21123/280108.

If the Examiner believes that a phone call may help to expedite this matter, the Examiner is invited to call Applicants' undersigned attorney at (703) 905-2173.

Respectfully submitted,

PILLSBURY WINTHROP LLP

By: Michael A. Sanzo
Michael A. Sanzo
Reg. No. 36,912
Attorneys for Applicants

Date: February 15, 2002
1600 Tysons Boulevard
McLean, VA 22120
Tel. (703) 905-2173

MAS/amx